

Quid Novi

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McGILL UNIVERSITY FACULTY OF LAW
FACULTE DE DROIT UNIVERSITE MCGILL

February 8, 1984
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General Assembly

What Is To Be Done?

by Pearl Eliadis
and Richard Janda

After lying dormant in the wake of first term results, the marks issue exploded at last Wednesday's General Assembly. The Assembly approved every resolution put forward to address the problem of failures in first year courses and deflated marks in upper year courses.

Among the resolutions was a controversial motion put forward by Al Garber. It called on the Dean to give a comprehensive explanation of the marks situation in light of which students would later vote whether to withhold any future contributions to the alumni fund. A friendly amendment to this resolution, sponsored by Hartland Paterson, called on the LSA to organize some more immediate measures (such as a strike or a day of silence) pending student response to Dean's explanation.

Both the Garber motion and the Paterson amendment passed by a 3 to 1 margin.

A series of resolutions, sponsored by LSA Council, called for the printing of section grade averages beside marks on student transcripts, mandatory filing of superior exam papers on reserve in advance of examinations, and changing of student numbers each term.

In addition, it was moved that professors allocate class time to informing students of their conception of proper legal writing style and that they provide students with at least one sample examination question which students may answer in writing and submit at least one month before exams.

A resolution sponsored by Lenny Abramowicz gave student Faculty Council Representatives a mandate to seek standardization of marks, whether by general or selective cross-marking of papers among course sections. These resolutions were passed near-unanimously.

The Garber resolution was the focus of debate and at first seemed to encounter resistance. Hillel Rosen, for example, remarked that he took the resolution to be a joke and hoped it would stay that way. Garber was quick to reply that the resolution was meant in all seriousness. He said it reflected his frustration and anger about how the school had treated his fellow students and prejudiced their futures.

Gary Lawrence, who seconded Garber's motion, suggested that if the resolution sounded confrontation-

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Gallup Poll Government

by Eric Belli-Bivar

"The Science of Legislation" might well have been the title of the speech given by the Hon. Mark McGuigan to the Faculty on Monday, January 30th. Although the Minister of Justice cannot be described as one of the more stirring speakers in the Government, his visit caused ample interest among students and faculty alike, as was evidenced by the "standing-room-only" crowd in the Moot Court.

"Social Consciousness"

McGuigan's speech focused on federal law re-

form, which, he noted, has seen no significant developments for at least the last decade because of the preoccupation with Constitutional amendment. In the first twenty minutes, McGuigan outlined some of the views prevalent in the current administration concerning the proper relation between law and society. He suggested that few would now dispute the assertion that law is a social science, whereas during his time at law school such a proposition would have been controversial. Stressing that his department understood this "link" between law and society,

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Assembly

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al, perhaps now was the time for some confrontation. He compared the marks situation at McGill with that at law faculties in the rest of Canada and in the United States and pointed to the arbitrariness and demoralizing effect of McGill's much lower marks.

Todd Sloan characterized the LSA resolutions as well-meaning "window-dressing" but argued that the entrenched "us-them" attitude among professors would not be broken through procedural devices.

Richard Janda underlined Sloan's concern and suggested that now, in the midst of the Dean Selection process, was a good time to get the marks problem onto the new Dean's agenda.

Roger Cutler said that a resolution like Garber's was a long time in coming and spoke of his frustration as past LSA president beating his head against the wall" dealing with "pig-headed notions from the Middle Ages".

Francine Ducros reflected the concern of some students that the Garber resolution was too confrontational. Instead, students should seek a productive dialogue with Faculty. Some students questioned the efficacy of the Garber resolution. It was in response to the latter concern that Hartland Paterson urged his more militant option.

Carl Mortished registered his "astonishment" at the reluctance of students to take measures that would force the faculty to make its policies more coherent and positive toward students. He pointed out that if our faculty claims to

Gallup

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McGuigan identified the Government's goal in law reform as "making the law the highest expression of our social consciousness".

To this end McGuigan pointed to Department of Justice projects involving legal reform in the areas of divorce, pornography, restitutionary claims in criminal actions and constitutional negotiations with native peoples.

For the balance of the Minister's one-hour visit, the discussion was opened up to questions from the floor. Questioners raised some sensitive issues ranging from decriminalizing possession of marijuana to modifying the law on abortion.

Decriminalization by Consensus

McGuigan responded to the marijuana issue by noting the lack of a "social consensus" to decriminalize possession (although he did mention that it was "rather unfortunate that it be so..."). With respect to abortion, the Minister pointed to the results of a recent Gallup poll which suggested that three quarters of Canadians favoured the present law; the implication being that with such a "social consensus" the government would be unlikely to press for any amendment.

have high standards, open comparison with other law faculties and law schools ought to be encouraged in order to verify this belief -- never mind resolutions about standardization between professors or class sections alone.

It remains to be seen what the Dean's reaction will be and how students will respond to it.

One was, however, left with the rather strong impression that the Government's understanding of the phrase "highest expression of social consciousness" was profoundly at odds with what one normally gathers from that expression. The Government's approach to legislative reform seemed to rely on the standard of poll results rather than on any clearly formulated conception of "the just society". Will the Gallup Poll someday supplant Cabinet as the primary policy formulator in Canadian government? A careful review of McGuigan's speech shows that such a process is in fact well underway.

McGuigan's visit to the Law Faculty was clearly appreciated by the students and staff but it was also a visit which smacked too much of the election trail and campaign fever. Heaven forbid that an election should be called - for chances are that then we will then get more of this predictable brand of Ottawa rhetoric.

Letter to the Editor,

Last Thursday night's party at Thomson House, given by third year BCL and LLB, was a great success, with one very noticeable exception. Out of the entire faculty, only a handful of professors attended. This, after all professors received personal invitations three weeks in advance; moreover, the vast majority did not bother to R.S.V.P.

This lack of support and courtesy will not go to improving the already shaky student-professor rapport.

Sidney Fisher

One Hundred Years of Women at McGill

by Pearl Eliadis

Next fall, McGill University will devote an entire year to the celebration of one hundred years of women at McGill. The Centennial Committee created by Senate will dedicate itself to cultural and educational events to commemorate the event.

A student sub-committee has also been created, and its mandate includes garnering the support of groups

and gathering new ideas through brainstorming sessions throughout the term. It should be emphasized that the overall event will be planned on a Montreal-wide scale and will involve support from groups throughout Canada and extensive coverage by Montreal media.

Among the planned events are a museum opening in early October, lectures by Judy

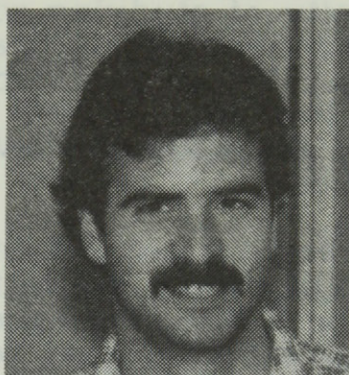
Erola, and an art exhibition at Royal Victoria College, to name a few.

Anyone who is interested in getting involved with the events and festivities is invited to contact Ramona Materi at 286-0848. Regular meetings are being held every Thursday at 4:30 p.m. in Room 203, Dawson Hall. The next meeting is tomorrow, Feb. 9th.

STUDENT PARTICIPATION PRIZE

In 1982 a prize rewarding participation in student activities for the Faculty of Law was created. Its purpose is two-fold. First, it is hoped that an award of this kind would encourage student involvement in the faculty. Second, it is thought that the value of that involvement should obtain official recognition.

Academic records are not considered as a factor. The sole criterion for the award is active participation and involvement in any facet of community life in the Faculty of Law. Prizes will be presented to the award-winners at the annual Banquet on March 3rd, 1984; this will include a memento of recognition and a certifi-



A student participation award winner 1983.

cate. In addition, the names of the award-winners will be engraved on a plaque to be hung in Old Chancellor Day Hall.

The prize may be awarded to up to ten students. Candidates may nominate themselves or be nominated by their colleagues. Nomination forms are available at SAO. It is requested that they be filled out and returned by February 17, 1984. At this time the nominations will be evaluated by the Scholarships Committee and the class presidents. Interviews will be held when necessary.

Jean-Pierre Blais
Prizes and Scholarships
Committee

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Editorial

Last Week's Assembly

I sat in the Moot Court last Wednesday during the LSA Assembly listening to the grievances of my fellow students concerning student-faculty relations. I considered possible sources of the problem, and reflected back on why I wanted to enter this faculty in the first place.

Hearing complaint after complaint from students, most of whom have worked hard to make this law school a place worth being at, one could feel their sense of betrayal. I watched many upper-year students express their dissatisfaction and disillusionment with the manner in which the law school operated, and I could not help but think that I was attracted to their viewpoint.

Although I resist it, accepting that viewpoint seems to be the common plight of any student participating in the faculty's political life.

When I came to McGill in the fall of 1982, I expected a lot. I looked forward to being in Montreal, and to the opportunity of studying with students from across Canada. But fundamentally, I wanted the best legal education available. I expected to be pushed hard and I expected to learn. I wanted to feel that when I left McGill I would be ready to tackle any law-related job with confidence and competence.

I expected a complementary goal on the part of professors. They were educating future members of the legal profession - men and women who deserved a degree of professional respect. That respect would enhance the rapport between professor and student. It would include the sense that each had a stake in what went on in the classrooms of Chancellor Day.

I assumed that those objectives were to be expected in any law school of high quality. But, as became apparent during my first year, few professors appear to think that this is the way to run a law school. The issue and ramifications of increased student representation on Faculty Council, debated last year, made this abundantly clear.

I get the feeling that there is an us-against-them mentality. The most obvious example of this is last semester's exam results. The problem of the grades, and their ill effects, has been pointed out by others in the Quid. How lucky we are to have high standards and not poor teachers!

A friend at Queen's Faculty of Law told me that no one in his first year class failed the year, although some withdrew and some failed a single course. For some unknown reason the professors there give mandatory practice exams at Christmas for first-year students. Pity them - such low standards.

At McGill our standards are so high that no one quite knows where they are. Autopsies of "F" papers reveal no clues, although an "F" looks like a tombstone on your transcript.

For some students it may be the death of a legal

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N O T I C E

1- GENERAL ASSEMBLY -- THURSDAY, FEBRUARY 9, at 1 PM, MOOT COURT

- continuation of consideration of "D" Grade (proposed new marking system)
- smoking in the Library
- other business

2- FACULTY COUNCIL -- THURSDAY, FEBRUARY 9, at 4 PM, ROOM 202

- Faculty consideration of MARKS RESOLUTIONS adopted at last week's General Assembly

You are urged to attend these meetings.

Stephen Fogarty

Stephen Fogarty
President

Editorial

The Trouble with Our School

"...class attendance, participation and interest are down. The concerns and aspirations of faculty and students are diverging. For many law students, law school has become more of a conduit to lucrative positions in large law firms than an opportunity to ponder the larger questions about law and justice".

Margolick, "The Trouble with American Law Schools" New York Times Magazine, May 22, 1983.

It appears that the ills ailing American law schools are close cousins to the ones plaguing ours. This week's General Assembly added to the already apparent levels of frustration building among students. Resolutions involving general strikes, days of silence and the flexing of financial muscle were all recommended as solutions. Solutions to what?

Can We Make Them Like Us?

If we tell the faculty that we are going to take away some of their money will they like us better? Will they treat us with the "respect" Al Garber said was so distinctly lacking here? Will they gain new insight into the role of student representation on Faculty Council if we do not answer questions in classes for one day? Although I voted for those resolutions to support the signalling of

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Faculty-Student Rapport

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career. One first-year student recently declined to let his name stand for a position in a law school organization because his future here is dubious. He had failed Obligations.

What a waste, I thought. "Crépeau-trapped", as one student put it. Students who have not mastered the material deserve to fail. But where does McGill manage to find all of these incompetent students?

My experience with faculty-student relationships is smothering the initial enthusiasm I had. Cynicism is replacing it. In many ways, I cannot take this faculty seriously anymore.

Unfortunately this view seems to be prevalent among my colleagues as well. When this occurs, law school becomes a game and not an education, a place of spectators and not of participants.

What does a law student leave with after three or four years? Some students left the General Assembly with the intention of never helping the Faculty again - in any way. It seems as if the most involved students are also the most disappointed ones.

As the years at the faculty add up, students realize more that a suitable legal education must be sought in spite of the attitudes of the faculty members. When the rapport is broken, such is the result.

Rick Goossen

Career Day 1984

On March 23, 1984, the L.S.A. Careers Committee is planning to hold a Career Day. The purpose of this activity is to inform students about the availability, across Canada, of various employment opportunities for law graduates.

We will be inviting speakers from Montreal law firms and from firms in common law jurisdictions. In addition we will be inviting law school graduates (and lawyers) who have moved into business, government, and other areas related to law. Given that a large portion of law school graduates eventually end up working in places other than law firms, this should provide an interesting perspective on alternative career choices.

Furthermore, we hope to have representatives of the Quebec and Ontario bars to discuss the requirements of their respective associations.

The Careers Committee was formed last November to help provide information to students on the job search procedure (curriculum vitae, interviews, etc.) and on various employment options. We need people to help with organizing the Career Day--the greater the effort put into its preparation, the greater the benefit will be to the student body. If you are interested in helping out, please leave a message in the "Careers Committee" mailbox at the L.S.A. office. See you March 23rd.

Careers Committee:
Tony Abruzzese
Grace De Sousa
Michael Hamelin

LAW BANQUET

by Sylvie Lévesque

This year, the Annual Law Banquet will be held at Hôtel du Parc, 3625 Park Avenue on Saturday, March the 3rd.

It will begin with a reception (including wine), followed by a buffet featuring such dishes as canard terrine à l'orange, saumon en Bellevue, and Boeuf bourguignon. Incidentally, Hôtel du Parc is known for some of the best dining in Montreal. During the buffet, you will be entertained by a classical music trio.

It is interesting to note that this year there will not be a guest speaker. There will be guest speakers! Indeed, since we wanted to honour the Dean, we decided to have a "Roast". A number of distinguished personalities (including a Judge), who have known the Dean for a long time, will subject him to some critical examinations.

After the Dean comes out of the oven there will be a dance, with entertainment furnished by a live band.

Although the Banquet is primarily given in part to honour those about to graduate, everyone who wants to come is free to do so. First and second year students are more than welcome. (I went when I was in second year and I had a great time). Tickets will soon be on sale in the pit, so watch for posters!

I look forward to a great Banquet, that will be remembered for a long time.

There will be beer and pizza in the pit, Friday the 10th, from 12:00 - 2:00. Everyone is welcome!

CONGRATULATIONS!!

to our own Robert Freedman, L.L.B. IV, who after a long and torrid courtship is now engaged to the lovely SMADAR TOURJMAN.

The ladies in the Faculty are advised that Robert is now a sin-



gle-valentine man and can no longer be regarded as Chancellor Day Hall's most eligible sweetheart. I, however, am more than happy to take up this role.

STEPHEN HAMILTON
L.L.B. IV



Editorial

The Trouble with McGill's Law School

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student dissatisfaction, I have a sinking feeling that the answer might be "no".

Faculty Collegiality

It is arguable that many problems stem from two distinct sources. First, faculty have consistently failed to demonstrate a coherent approach to admissions and its relationship to academic policy. This shortcoming has manifested itself in extremely low grades in many first and upper-year courses this year. If certain faculty members truly believe that many students are incapable of performing adequately, then admissions criteria should be made more stringent. Otherwise, those faculty members should exhibit a degree of collegiality co-extensive with agreed-upon criteria that may well be lower than their personal standards. That is not to say that each professor's standards should be identical. However, faculty policy at the level of admissions should extend in principle to the levels of performance expected in classes and examinations. There should be an articulated level of divergence from faculty policy that is actively discouraged so that students can be actively encouraged during their law school careers.

Use of Case Method Should be Restricted

The second problem is readily evident in any upper-year class. Students are rarely prepared for class, and eagerly wait for the bell signalling its end. As was suggested in "The Trouble with American Law Schools", part of the problem may well lie in the inadequacy of the case method, a popular pedagogical tool since the late nineteenth century. Anything needed to know about caselaw analysis can and should be learned in first year. There is no need to repeat it ad nauseum through a different course "lens" for another two or three years. Upper-year classes should concentrate on using techniques learned in first year to clinical curricula in upper years, or to larger sociological and jurisprudential questions. Otherwise, our law school will continue to churn out lawyers who are "analytic giants but moral pygmies".

These two problems are fundamental to many of the difficulties here at McGill, it is submitted, and although many of the resolutions adopted by the Assembly are to be applauded, they are doomed to remain band-aid measures unless more profound changes are forthcoming.

Pearl Eliadis

Skiers Clean Up

McGill Skiers Dominate Law Games

Our hastily assembled ski team was the big surprise at the Canada Law Games held in Ottawa last week. Pitted against strong and better-trained teams from other schools, McGill skiers streaked down a gruelling 62-second course to score an upset victory.

The men's team swept three of the top ten spots, easily beating out second place Windsor to capture the first place in the Mens Team Competition. Individually, team members placed as follows:

Andrew Foti	3rd
Craig Wright	5th
Fred Hoefert	6th
Doak Horne	12th

Announcements

The 4th year class picture will be taken next Wednesday, Feb. 15 at 12 noon. Watch for posters around the faculty for the location. All members of the 4th year class are urged to come.

Applications are sought for Class Representative positions. We already have one for the Vancouver, Ottawa and Montreal areas. We'd like one for Toronto, Calgary and the States. If you are interested, please contact me directly or leave a note in my mailbox in the LSA office.

Remember, the class gift committee is going to be discussing where the class gift money goes. Some of the members of the committee include J.-P. Blais, Billy Herman, Chris Broadbent and Chris Scattolin. They will be seeking suggestions so let them know what you think.

Carole Sheppard
BCL/LLB IV

The women's team, consisting of only two skiers, also did incredibly well. So well in fact, that with only two skiers the team managed a second place finish in the Womens Team Competition.

Jill Huggessen	6th
Hélène Guay	9th

This strong showing also allowed McGill to clinch first place in the Combined Mens-Womens category. (We will admit -- somewhat begrudgingly though -- that the Combined title is shared with Windsor).

Congratulations to all and many thanks to Captain Doak Horne for his organizational and coaching efforts. Please note that team members may pick up their awards from Andrew Foti (Tel.: 932-1605).

CALS

Students from the provinces in question assured the meeting that no such action was imminent. CALS pas-resolution supporting the principle of "mobility rights".

Also, individual schools have lobbied the federal government to amend the Canada Student Loans Act, in an effort to secure less onerous repayment terms for underpaid articling and Bar students. CALS will continue these lobbying efforts and to coordinate the efforts of member associations.

Karen Gilmore of Toronto reported on a meeting she had with a representative of the European Law Students Association which is seeking to establish an exchange traineeship program through links with CALS and the provincial Bar associations.

Curling

If You Really Wanna Curl, Get a Toni!

Or so went the old TV jingle. The fact of the matter is, if you wanted to take in some exciting curling over the Law Games weekend you should have made your way down to Landsdowne Park in Ottawa where the McGill ladies' team literally swept their way to victory ("More shoulder, girls! More shoulder!") in the Consolation Event Final. Being short-handed proved no handicap to the team of Bettina Karpel, Andrea Lockwood, and Del Daignault, whose only loss was a close one to a very strong and highly competitive team from Alberta (which the skip, for personal reasons, would have dearly loved to beat, and which went on to win the Championship). Although a missed key shot in a tense final finish almost caused the team to snatch defeat from the jaws of victory, Lady Luck was with McGill which emerged victorious over Dalhousie 6-5. No mean feat for a bunch of rookies! Thanks must go to the McGill mens' team for buoying our confidence by losing to us 7-1 (yes, that's SEVEN to ONE) in a pre-Games match. (Sorry Todd - I couldn't resist!). Sports fans Canada-wide can watch for McGill in the Championship next year!

The meeting closed with the election of new officers. Incoming CALS President is Arlene Henry, a second-year law student from Victoria. Representatives of Laval and Dalhousie were elected to fill the positions of Vice-President Civil and Common.

CALS : A Great Beginning

by Peter Dauphinee

LSA President Stephen Fogarty was among student delegates from law schools across Canada who attended the second meeting of the Canadian Association of Law Students (CALS). The meeting was convened to adopt a constitution for the newly-founded body, elect a new executive, and discuss matters of importance to law students such as the Arthurs Report on Legal Education. Thirteen of twenty-one Canadian law schools were represented, including three from Quebec, at the two-day meeting held in Ottawa.

The idea of a national association of law students grew out of the annual meetings of law student association presidents. The presidents perceived a need for a more structured forum in which concerns such as repayment of student loans while articling could be raised and government lobbying organized.

CALS was founded at the 1983 Presidents' meeting held at Osgoode Hall. At that time a list of objectives was adopted, and then-LSA President Roger Cutler was elected CALS President. Cutler hosted a meeting last October at McGill to hammer out the organizing principles of a constitution. Following the meeting, Cutler and Secretary-Treasurer Carole Gingras drafted the consti-

tution, in French and English, which was accepted at the January 28-29 Ottawa meeting.

The constitution lists the objectives of CALS as follows:

- 1) To foster relations among common law and civil law students, recognizing linguistic as well as legal traditions;
- 2) To provide a forum in which to share information and concerns between law students in Canada;
- 3) To identify and respond to issues which affect law students on a regional and national level;
- 4) To represent the interests of law students in lobbying organizations such as governments, the legal profession and University administrations;
- 5) To improve the quality of legal education in Canada and encourage student participation in academic and administrative decision-making.

According to Cutler, the founding of CALS was a stimulating experience. Students assembled from all parts of Canada to overcome the geographical and political obstacles to an organization of this nature. Indeed, said Cutler, the three founding meetings -- held in Toronto, Montreal, and Ottawa -- were analogous to the meetings of the Fathers of Confederation, where similar problems were resolved through compromise.

The viability of CALS depends entirely on the enthusiasm and participation of law students from all parts of Canada. While financial considerations dic-

tate that meetings usually will be held in Central Canada, schools from outlying regions can afford to send delegates only if costs can be subsidized. Almost inevitably the schools in Central Canada will be subsidizing those in the East and the West to attend, and the larger schools subsidizing the smaller. The pressure is thus on delegates to return to their associations with reports of substantial progress.

Since so much depends on the ability of CALS to subsidize transportation costs at least for annual meetings, Cutler has approached the federal government for a subsidy. A favourable response from the Department of Justice would guarantee the viability of CALS for at least five years.

In other business, CALS formed a committee of delegates from Osgoode, Laval, Dalhousie and Victoria to meet this summer in Quebec City to study and respond to the Arthurs Report on Legal Education. In addition it was decided to send a letter to the Social Sciences and Humanities Research Council, which sponsored the original Commission, requesting that CALS be represented in any follow-up conferences on legal education such as one held last December.

Stephen Fogarty introduced an issue of particular importance to McGill students, the right of law graduates to work in other provinces, or as he termed it, "mobility rights". Fogarty was concerned about ominous reports that there had been some pressure on provincial Bar associations to impose restrictions on out-of-province law grads.

Continuation of last week's General Assembly will take place tomorrow, Thursday, February 9 at 1:00 p.m. in the Moot Court.

In addition, all students are encouraged to attend Faculty Council meeting on Thursday, February 9 at 4 p.m.